THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 33697 of 1997

DATED: 28-03-2007

Between:-

P. Krishna s/o Ramaiah, aged about 40 years, occ: proprietor, Broadway Tailors, RR/o Khammam.

…PETITIONER

And

Deputy Commissioner of Labour & Second Appellate Authority under A.P. Shops & Establishments act, Warangal and three others.

…

RESPONDENTS

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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O R D E R

Seeking to have the order of the first respondent, dated 25.10.1997, quashed, the present writ petition is filed.

Against the order passed by the Labour Officer, Khammam, under Section 51(1) of the A.P. Shops & Establishments Act, an appeal lies to the Assistant Commissioner of Labour. Since, at the relevant time, the Assistant Commissioner of Labour, was the in-charge Labour Officer, no appeal could be preferred to him against his own order and as such the petitioner approached the first respondent, Deputy Commissioner of Labour who, vide proceedings dated 25.10.1997, returned the appeal holding that the Assistant Commissioner of Labour was the appellate authority against orders passed under Section 51(1) of the A.P. Shops & Establishments Act.

While the Assistant Commissioner of Labour was the in-charge Labour Officer, who passed the impugned order in the year 1997, necessitating the petitioner approaching the first respondent, it is now fairly conceded by Sri A.K. Jaya Prakash Rao, learned counsel for the

petitioner, that the present Assistant Commissioner of Labour, Khammam, is not holding charge as a Labour Officer and as such an appeal can be preferred before the second respondent, Assistant Commissioner of Labour. Learned counsel would submit that, since the first respondent had returned the papers, the petitioner be permitted to approach the second respondent by way of an appeal within a period of four weeks from the date of receipt of a copy of this order. Since the situation, which existed when the writ petition came to be filed in 1997 is no longer prevalent and since an appeal can now be preferred to the Assistant Commissioner of Labour, the validity of the proceedings of the first respondent dated 25.10.1997 does not necessitate adjudication. Leaving it open to the petitioner, to prefer an appeal to the Assistant Commissioner of Labour, Khammam, and inasmuch as the cause in the writ petition does not necessitate adjudication, the writ petition is dismissed. However, in the circumstances, without costs.

RAMESH

RANGANATHAN, J
Dated: 28-03-2007
vp